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# ACTIVITIES OF THE UNITED NATIONS CENTRE ON TRANSNATIONAL CORPORATIONS AND ITS JOINT UNITS

## Information requirements for assessing the performance of corporate obligations

## Report of the Secretary-General

SUMMARY

The present report examines two main issues related to the follow-up of agreements concluded between Governments or local enterprises and transnational corporations: (1) the need to establish reporting systems that allow performance to be tracked and (2) the usefulness of frameworks that allow for comparability of information to ensure transparency and accountability of operations across borders. The report first discusses uses of information and some of the factors making the availability of and access to information on companies and performance of increasing importance, particularly to market-driven economies. The report then identifies and discusses the kinds of information that need to be disclosed and how such information can be collected, analysed and used by Governments or local enterprises. It then examines existing international accounting standards and efforts being made for multilateral cooperation. Finally, the report discusses some action that could be taken with regard to national and international frameworks.

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## INTRODUCTION

1. At its seventeenth session, the Commission on Transnational Corporations requested the Secretary-General to report to it at its eighteenth session on the experience gained in the development of the comprehensive information system of the United Nations Centre on Transnational Corporations. 1/ The present report discusses the information required to track the performance of transnational corporations. Governments and other parties concerned follow the operations of companies within their jurisdictions, including transnational corporations, both to ensure compliance with laws and regulations and to safeguard their interests as shareholders in joint ventures.

2. Earlier reports on the comprehensive information system focused on the information sources necessary to meet the needs of developing countries when making decisions prior to the involvement of transnational corporations in their economy. These reports have been expanded and are included in the recently published Transnational Business Information: A Manual of Needs and Sources. 2/ The Manual deals with policy objectives of information, preparing for negotiations, identifying priority industries, selecting company candidates, finding in-depth information on companies and negotiating with them.

3. The theme of the present report is the information requirements for the next phase: what are the information needs after the conclusion of negotiations leading to the establishment of a joint venture or a foreign subsidiary in the host country? Access to appropriate, adequate and timely information is as essential to the follow-up phase as it is during the negotiation and decision-making phases to ensure that such benefits as transfer of technology, employment and training, preference for local goods and services, and foreign exchange are realized. This theme is discussed in the broader context of the collection, analysis and dissemination of information about business enterprises in general: what are the sources of such information? How can the information be reported? How can it be used?

4. Section I contains an introductory discussion of the uses of information to track company performance and of the factors that make information access increasingly important. Section II identifies the kind of information that needs to be disclosed for different purposes. These include evaluating the financial state of companies, assessing the development benefits of their activities, monitoring the environmental impact and evaluating the effectiveness of operations. Section III moves from "what" to "how", namely, how the information identified in Section II is reported, the national and international mechanisms in place to specify reporting requirements and the interplay of those mechanisms. In particular, it discusses the existing mechanisms for the definition of international accounting standards, and the reporting systems established at the local level through legislation or contractual requirements. Section IV discusses the organization and flow of information in meeting the needs of the users. It touches upon the costs and benefits of establishing information collection and analysis systems and discusses the sharing of information within and between countries, the locus

of responsibility for data collection and analysis, coordination, and the role of local representatives on the boards of directors of joint ventures. Section V contains an assessment of the state of development of performance tracking systems and recommendations on possible improvements.

## I. THE INTERNATIONAL CONTEXT OF INFORMATION REQUIREMENTS

5. There is a wide consensus that information availability is a key requirement for the efficient and effective functioning of a market economy. There are numerous users of, and needs for, information. The users include present and potential investors, employees, lenders, suppliers and other creditors, customers, government bodies and the public. Their needs for financial and other business information are varied. For example, investors interested in a return on their investment need information to determine the profitability of the enterprise; as shareholders they need information to assess the ability of the enterprise to pay dividends. Lenders are interested in information to determine whether their loans and the interest thereon will be paid on time. The public, affected by the impact of enterprises on the local economy, may need information on the range of activities of those enterprises and their prosperity.

6. Governments require information to regulate business activities, to set taxation policies, to determine compliance with laws, regulations and contractual provisions and to protect investors. Further, they and their agencies may be investors in enterprises, partners in joint ventures, lenders, guarantors or suppliers and customers. In that capacity, they have the same information needs as non-governmental users. The position of Governments and local partners in joint ventures is an example. A large share of investments in developing countries is in the resource sectors, such as petroleum, mining, forestry and fishing. As the Government is often the owner or steward of the resources, it is frequently a participant in joint ventures. Similar arrangements are common in other sectors, where Governments make land or infrastructure available as part of their contribution to a joint venture. In such circumstances, they are in the position of shareholders in addition to their position as regulators and collectors of taxes. A Government as a shareholder requires the same information as any other shareholder in order to assess the profitability of its investment.

7. Financial transparency and accountability are essential to allow all users - public or private - to make informed economic decisions. Freely accessible information promotes trust and cooperation in business dealings. Conversely, friction may arise when local parties and transnational corporations lack the information required for decision-making. The issue, then, is how to make information available in an efficient fashion in the complex world of overlapping jurisdictions and transnational economic activities.

8. Western industrialized countries have long recognized the importance of information access and have set in place far-reaching information disclosure

and analysis systems. The more developed the economy and the more market oriented it is, the more information is collected and required to be publicly disclosed. Information is crucial, for example, to the operation of a public securities market. Almost all stock exchanges have their own reporting requirements for listed companies, in addition to the reporting requirements of the national legislation. The requirements are very detailed. For example, the compensation of the three highest paid officials of a company, including fringe benefits and pension, must be disclosed in accordance with the rules of the Securities and Exchange Commission of the United States of America.

9. There are gaps in the information made available. One of the major problems in obtaining information about a transnational corporation is the very "transnationality" of the corporation. Since it operates across the borders of countries, it is extremely difficult if not impossible for any one country to obtain all the necessary information to track a company's performance for both monitoring and investment (market) purposes. Consolidated financial statements of transnational corporations contain information on parent and subsidiaries but usually that information is not segmented by line of business or geographical area and cannot be extracted to permit the identification of items in financial statements that pertain to a specific country. Developed market economies have recognized the existence of such problems and are beginning to address them. For example, as a consequence of the recent BCCI (Bank of Credit and Commerce International) and Maxwell cases, the United Kingdom of Great Britain and Northern Ireland and the United States of America, countries with highly sophisticated reporting requirements, are re-evaluating the adequacy of their information collection and analysis systems and moving towards more stringent requirements.

10. Transnational corporations of developed countries are among the most knowledgeable and intensive users of the information available, which gives them competitive advantage. Not all developing country Governments and local enterprises, on the other hand, have the capability to assemble the information necessary for sound business dealings, have access to sources of information and data or have in place the information infrastructure necessary to track company performance. In some cases, the cost of collecting information in the required degree of detail appears prohibitive.

11. The Commission on Transnational Corporations has recognized the imbalance in access to information between developing countries and transnational corporations. As developing countries move increasingly towards market economies, this imbalance becomes more critical in regard not only to the relationship between transnational corporations and developing countries but also to the participation of developing countries in market-driven economic systems. It is in the areas of information gathering, management and exchange, in particular, that developing countries are seen to be at a disadvantage. There has been considerable international effort, which is likely to be required for some time to come, to assist developing countries to develop their information infrastructure.

## II. INFORMATION REQUIREMENTS

12. There are a number of needs and purposes with respect to accessing company information, which vary from user to user. To establish an effective tracking system, a country must identify its information needs and the purposes to be served by the system. The sections below discuss information required for financial, developmental and environmental purposes and for assessing operations.

### A. Financial information

13. Local parties require both macro- and micro-economic information. Macroeconomic information is necessary to understand basic economic trends so that government policies can respond to existing circumstances; micro-economic information must be obtained to determine and allocate revenue.

14. Central banks, such as Federal Reserve Bank of the United States and the Bank of England, are among the institutions that collect and analyse macroeconomic information. At this level, Governments need to keep track of foreign exchange flows. This requires that foreign currency transactions and all loans and debts of subsidiaries be reported. In this connection, the central bank will usually keep track of foreign exchange remittances for the purchase of goods and services abroad, the payment of interest and other financial charges, as well as the repayment of principal under loan agreements and the repatriation of dividends. The extent to which projects are foreign exchange earners (or losers) needs to be appreciated by the central bank and ministry of finance authorities, and that information shared with the other ministries concerned. Keeping a tally of the extent to which Governments provide loan guarantees for transnational corporation projects, either directly or indirectly, is another macroeconomic issue which requires more attention by Governments. What is called for is a mechanism or reporting procedure to keep track of guarantees and to provide for an appreciation of the extent of the financial exposure.

15. A company's revenues and expenses are typical examples of information at the micro-economic level. This information must be obtained in order to assess a company's income taxes, a basic governmental function, and as the basis for national income statistics. The basic micro-economic information that permits a company's performance in the financial area to be tracked is contained in its annual balance sheet, profit and loss statement, and cash flow statement or statement of sources and application of funds. In addition, in the case of joint venture operations, the Government, as a shareholder, should have access to additional financial information in order to compare performance with revenue forecasts and cost limitations established in annual budgets. This is discussed further in section D below, covering information required to track operations. Information requirements in this area are very detailed in developed countries; less so in developing countries. Harmonization of requirements would lead to raising standards of information access.

16. Transfer pricing is an issue of prime importance for the tax administration authorities as well as for those dealing with customs, exchange controls and restrictive business practices. "Transfer price" is the term used to describe the price charged for the purchase or sale of goods or services between related entities within a transnational corporation family or group of related companies. In order to avoid distortions, the price charged should be a fair market or arm's length price. Governments and local participants, however, are concerned that a company might charge more or less than a fair market price for such intra-group transactions by under- or over-invoicing. This is usually called "transfer pricing abuse", though in practice the word "abuse" is frequently dropped so that "transfer pricing" has a negative connotation.

17. The most common reason for transfer pricing abuses is to manipulate profit between national jurisdictions with tax rate differentials in order to minimize the taxes paid by the transnational group as a whole. Transfer pricing may be increased by a transnational corporation because of royalties, import and export duties and other fiscal charges or impositions payable on the basis of the price paid or received. On the other hand, it could be reduced if the corporation was able to collect fees for trademarks, patents and know-how and services such as management, marketing and technical assistance.

18. In countries that have exchange controls, transfer pricing is used to avoid exchange control regulations and to reduce exchange risks by exporting at lower than fair market prices (or importing at higher), particularly where artificial exchange rates exist and where currency devaluations (or revaluations) can be expected. In times of political uncertainty, transfer pricing devices are frequently used to place money in jurisdictions that are perceived to be safe havens.

19. The amount of government revenue that can be lost by reason of transfer pricing abuses can be highly significant. This was estimated at 29 per cent for American transnational corporations in 1985 and over 30 per cent for Japanese transnational corporations in 1983. 3/ It can readily be seen that just a 10 per cent manipulation of price would have a significant effect on taxable income and import and export duties. It would have a similar effect on the net profits shared with local partners in joint ventures. Transfer pricing abuses also limit the profits available for distribution as dividends.

20. Many developing countries do not have the administrative capability to monitor transfer pricing transactions. Through the Centre's advisory services, tax authorities from Canada, the United Kingdom and the United States have assisted developing countries to set up such mechanisms. The Centre has advised a number of Governments in establishing legislation to protect revenue and control transfer pricing. More recently, the Centre has focused on transfer pricing in joint venture agreements and suggested a number of transfer pricing protective provisions which could be used in joint venture contracts. One of the clauses suggested would require a joint venture partner to report on a regular basis each transaction or series of related

transactions with an affiliated company above a significant threshold amount. Transactions below that amount would be reported in the aggregate. 4/ In the Centre's experience, efficient information gathering and analysis mechanisms in this area have the potential of yielding significant benefits for Member States.

## B. Information on the development impact

21. A host country party, upon entering into a foreign investment agreement or a joint venture agreement, expects a positive impact on its own economic and social development from the project operation in its territory. Purchase of local goods and services, employment and training of citizens and transfer of technology are some of the ways in which the operation of a transnational corporation can have a positive impact on local conditions. Such an impact can be as important as financial gains for many developing countries. Accordingly, contractual arrangements or foreign investment regimes spell out requirements to undertake certain actions or to achieve certain specified outcomes. In the Centre's experience, contractual development requirements are seldom coupled with information disclosure which would make the provisions effective.

22. There are various kinds of information that can be used to determine whether expected outcomes have in fact been achieved. For example, year-end reports on the amounts of goods and services purchased locally will help to track the implementation of local preference provisions. Reports on employment and training will provide evidence of compliance with arrangements concerning the localization of management and technical skills. To track technology transfer, a Government or local partner may want to confirm that the relevant manuals are delivered, personnel are trained, advice is given on innovation, and improved patents are shared within a specified time-frame.

23. Some companies voluntarily submit to the host country partners value-added statements to document their contribution to local development. A typical value-added statement reports on the amounts paid directly to the Government, including income taxes, import duties, export duties or sales taxes, pay-as-you-earn payments for employees, rentals for the use of national land or facilities and payments to the Government or local utilities for power, water, transport and so forth. Such statements also show payments to local employees by way of salaries and bonuses, as well as vacation payments, medical aid and other benefits. Value-added statements also report payments locally by way of dividends to local investors (government, parastatal or private) and interest paid to local financial institutions. Some statements further report the amounts paid for community development, including charitable contributions, educational contributions, and monies spent locally for community assistance, including construction of facilities such as schools, the provision of local transportation, or making infrastructure available to the public. Value-added statements help local partners to appreciate some aspects of the contribution of transnational corporations, but they complement rather than substitute for the instruments of monitoring.

## C. Information on the environmental impact

24. Today, most Governments recognize the importance of protecting the environment and preventing and controlling pollution. Monitoring is essential for the conservation and management of the environment, especially because this is one area in which any deviation from standards has to be detected as early as possible to prevent irreparable damage. Information that is crucial to protecting the environment is difficult and expensive to obtain. Establishing environmental base lines against which to assess the effect of a proposed activity can be a time-consuming and expensive process, even for the most developed countries.

25. Many developing countries do not yet have the basic environmental legislation in place to establish standards and monitoring systems. The Centre has been active in advising countries in the preparation of such legislation. Until legislation is in place and administered, it may be necessary for these countries to protect their environment by including in contractual arrangements specific provisions to that end.

26. Such contractual requirements usually include a mandatory environmental impact study or statement. This entails the projection and assessment of the impact on the environment of a proposed activity, not only the impact on human health, safety and welfare, as well as on air, water, land, animals and the entire ecological system, but frequently on the aesthetic and socio-cultural values of the community as well. Environmental impact statements serve as the tool for assessing the immediate, short-term and long-term effects on the environment of the proposed activity, for weighing the economic costs and benefits and other advantages and disadvantages of a proposed project and for considering alternatives.

27. Contractual requirements could also include an environmental management plan to provide for the equipment and procedures to measure and monitor the environment, to prevent significant adverse effects, to take any necessary action to ameliorate or mitigate them and, finally, to provide for restoration, reclamation and rehabilitation.

28. The information collected through the environmental impact statements could be disclosed for the benefit of other investors and host parties to enable them to deal effectively with the different problems that need to be addressed in preparing environmental management plans. Pooling of information through greater disclosure and sharing can contribute to more effective cooperation in environmental protection.

29. Compliance with environmental protection requirements could be documented and tracked through, for example, special purpose reports included in annual reports of a company's board of directors and the accompanying financial statements. Information gathering and analysis for environmental protection is an area in which developments in the definition of standards, disclosure requirements and the establishment of international cooperation and coordination mechanisms could provide great benefits to the international community.

## D. Information on operations

30. While annual financial information provides a view of the overall financial health of the company, operational information, when properly collected and analysed, provides an indication of how efficiently the company is performing, as well as the profitability of specific operations of the company. It is also useful when tackling the problems raised by transfer pricing practices.

31. In almost every business sector there are certain key ratios of general applicability that are indicators of management performance. In the hotel sector, for example, the occupancy rate (the percentage of available rooms actually rented), room rental revenue as a percentage of total sales, the average daily room rental rate and the cost of food and beverages as a percentage of food and beverages sold are some of the key indicators. When local parties as shareholders are interested in tracking the efficiency and profitability of specific operations, they must first be aware of these indicators and then make appropriate arrangements to obtain the necessary information in usable form. In the Centre's experience, many agreements contain financial reporting requirements, but few contain requirements for the reporting of management information in sufficient detail to permit timely evaluation of performance.

32. Most transnational corporations require that their managers submit detailed monthly management reports to the head office, which are usually based on an annual operating line item budget - that is, a projection of the expected costs and revenues for the year, broken down into detailed items (the "line items"). The monthly management report then indicates for each line item the actual result for the period compared with the budget and, usually, compared with the prior year. This is frequently summarized on a year-to-date basis so as to even out the fluctuations that may occur in any particular month. Any result that is significantly different from the budget projection is usually explained by the manager in a short summary statement at the beginning of the report. In this era of computerization, monthly management reports can usually be prepared with minimum expenditure. They are crucial to the understanding of the workings of any business activity of any size. There is a trend for copies of the monthly management reports to be required. This, of course, should be done in such a way that the confidentiality of commercially sensitive information is protected.

33. In addition to monthly management reports, most companies prepare quarterly financial reports that are not audited. Copies of these reports may be obtained so that problems can be identified early, and so that it is not necessary to wait until the end of the financial year, when the annual audited financial statements are prepared, in order to appraise the financial aspects of operations. These quarterly and annual financial statements (balance sheet, profit and loss statements and cash flow reports), when prepared on a standard format, as required for example by the Fourth Directive of the European Community, 5/ will facilitate the comparison of operations. The advantage of this approach is that it affords host parties access to information that is already compiled, without imposing an added burden on the company.

## III REPORTING REQUIREMENTS

34. The previous section discussed the major purposes for which information is required to track compliance with contractual obligations. The existing national and international frameworks for information disclosure are discussed below.

### A. International accounting standards

35. Four different groups have been formulating international accounting standards since the 1970s. They have created a well-developed body of voluntary standards without enforcement mechanisms (so-called soft law) which, if implemented, could lead to increased transparency and comparability in financial statements. The groups share several characteristics. Three are intergovernmental and public: the Intergovernmental Working Group of Experts on International Standards of Accounting and Reporting, a subsidiary body of the Commission on Transnational Corporations, the Contact Group of the 15th Directorate of the European Community (EC) and the Working Party on Accounting of the Organisation for Economic Cooperation and Development (OECD). The International Accounting Standards Committee (IASC) is composed of experts from the private sector, namely the accounting profession. Two groups (the Intergovernmental Working Group and IASC) are international and two (the OECD and EC groups) are regional. The Intergovernmental Working Group, which has 34 members, comprises developing countries and countries in transition in addition to developed countries. The members of the other three groups are almost exclusively from the developed countries. Only the standards developed by EC are enacted into national legislation and so have the force of law.

36. Despite the fact that four different bodies have been involved in this exercise, their standards are internally consistent with each other and have done much to promote the objective of the harmonization of national accounting standards. However, in some cases they permit alternative treatments, which limits comparability. Consequently, there is a move under way to eliminate those options. As they stand, they represent a solid framework which can serve any country that wants to establish an accounting and reporting framework. In fact, a number of developing countries and countries in transition have found it more appropriate to adopt them rather than another country's standards. International accounting standards are increasingly being used because of the globalization of business, with enterprises looking beyond their own borders for opportunities to raise capital. In the near future, the members of the International Organization of Securities Commissions (IOSCO) may require that enterprises listed on their exchanges use international accounting standards.

37. The United Nations Centre on Transnational Corporations gives technical assistance in this area. Its standards are found in two publications, Objectives and Concepts Underlying Financial Statements, 6/ and Conclusions on Accounting and Reporting by Transnational Corporations. 7/ More recent

pronouncements are found in International Accounting and Reporting Issues: 1989 Review 8/ and 1990 Review. 9/ The Intergovernmental Working Group of Experts on International Standards of Accounting and Reporting regularly discusses such unresolved issues as the best practice for accounting for intangible assets or environmental protection measures or how to deal with the problems arising from privatization. In addition, it has initiated a programme of technical cooperation in Africa and in countries in transition to help them with various aspects of accountancy development. In particular, experts members of the Group have participated in a task force in one region to revise that region's accounting rules and standard-setting process.

## B. National frameworks

38. Many countries have recognized the need to set up comprehensive frameworks for business information disclosure, as this is seen as beneficial to economic activity. Access to understandable, relevant, reliable, comparable and timely information facilitates evaluating company performance and making sound economic decisions. The leading countries in the collection and analysis of information are those with the largest market economies, for example, the United States, Germany and France. An analysis of the requirements of leading and emerging industrialized countries shows that they are extensive but similar in many respects.

39. Many industrialized countries require that reports be filed annually (and sometimes more frequently) by companies under their company law, commercial laws or securities legislation. In particular, they have comprehensive information and reporting requirements for public companies. Such records enter the public domain after a specified period. For example, the reporting requirements of the United States Securities and Exchange Commission (see para. 8 above) are particularly extensive and generally regarded as well thought out, and can serve as an effective model for other Governments.

40. Reporting requirements are usually found in legislation and regulations. Governments set out in detailed regulations the information that is to be reported, how frequently, in what form and for what time periods. The objective is to ensure that the information required is specific and obtained in a consistent form so as to permit comparison and analysis. This requires that the same categories of information be disclosed for each reporting period and that the same types of information be disclosed for projects within the same industry.

41. In areas where the importance of monitoring has recently emerged, more can be done in defining reporting requirements. Environmental protection is one such area. The Intergovernmental Working Group on International Standards of Accounting and Reporting has undertaken a review of environmental laws and regulations in various countries regarding information disclosure on environmental matters. It found that, despite the heightened awareness of some transnational corporations, consideration of environmental issues was not widespread in their annual reports. There was also an absence of accounting

regulations, which allowed the enterprises wide latitude in what they reported. The information given on environmental protection measures was largely descriptive and often contained no more than corporate policies or intentions. Based on its surveys of best industry practices in 1989 and 1990 and its discussions, the Group formulated recommendations for improved environmental accounting and reporting. The items recommended for inclusion in the annual report and the financial statements include (a) the formal policy and programmes adopted by the enterprise with respect to environmental protection measures, (b) environmental emission targets and (c) the financial or operational effect of environmental protection measures on the capital expenditures and earnings of the enterprise. 10/

42. In the absence of legislation, reporting provisions have often been included in contractual arrangements. This is viewed, however, as a stopgap device pending the preparation of appropriate legislation. It is obvious that the vagaries of ad hoc negotiations do not allow Governments to enforce uniformity in the reporting process, and may not result in the establishment of uniform standards of information and disclosure requirements. There is a growing recognition of the need for adequate reporting requirements, especially in the chemical, pharmaceutical and forestry industries. There is, in fact, a trend to require more detailed reports to permit tracking compliance with provisions in those areas.

43. Pending the establishment of national systems, local parties could access information publicly disclosed in home countries. Reliance on existing sources permits local parties to take informed decisions without adding to the reporting obligations of transnational corporations. In the Centre's experience, this information source is not used as frequently as it might be. While recent cases in the international banking industry have demonstrated the difficulties that any one country may encounter in obtaining information on the entire operations of a company, few local parties attempt to acquire information on transnational corporations that is readily available in other countries and useful for comparison purposes. It might be simple to provide in agreements, particularly joint venture agreements, that a transnational corporation submit to a host country copies of the public reports which it makes available to countries in which it operates.

44. The Centre has assisted developing countries in gaining access to that information by making available not only its extensive collections of the annual reports and stock exchange filings of public companies worldwide, but also of national reporting requirements. The Centre has supplemented the reports with financial analysis and has provided training in defining appropriate reporting requirements.

## IV. USING INFORMATION

45. Information is of itself of limited usefulness. Raw data must be processed and analysed to become serviceable. There are cases in which information is available, but needs to be more actively used before benefits can be derived from it. Specific information requirements, coupled with an

adequate review mechanism, permit local partners to confirm that the requirements of contractual provisions and relevant legislation have been met. Countries need to evaluate the costs and benefits of establishing a business information reporting and analysis system. Among the costs are the tangible cost of establishing and managing the system and the intangible one of discouraging a potential investor, should the reporting requirements be perceived as unduly burdensome. Among the obvious benefits is the likelihood of increased revenue and ability to take appropriate (profitable) business decisions. The section below discusses some of the issues that a country faces in setting up an information analysis system to monitor business activity.

## A. Sharing of information

46. Countries have different ministries, agencies and institutions collecting information, each for their own purposes. Thus, the ministry of mines may be interested in production statistics; the department of the environment collects information on pollution, erosion, restoration and the like; the central bank, on foreign currency transactions; the ministry of finance, on taxable income; customs and excise, on import and export statistics.

47. The information necessary to track the performance of a transnational corporation is frequently dispersed within a country and information concerning activities outside its borders is always difficult to obtain. Frequently, the host parties in joint ventures do not have internal arrangements for the sharing of information given to local directors with the ministries that have the technical ability, experience and capacity to analyse the information. Further, agencies may be reluctant, for confidentiality or other reasons, to share the information they have, so that seldom is information exchanged inside a Government with any greater frequency than between Governments. Lack of information and the absence of arrangements to share it may prevent local parties from realizing the benefits they are entitled to under contractual arrangements or legislation. Countries need to evaluate the pros and cons of information sharing and strike the balance between information sharing and confidentiality that is most appropriate to local conditions.

## B. Locus of responsibility

48. Countries have often found it useful to designate a lead agency for the collection and analysis of monitoring information. A national development corporation or a particular line ministry or statistical office could be designated for that purpose. The Government of an Asian country has organized a government shareholders agency to oversee its joint venture interests. When a Government owns hotels, the natural focal point would be a national hotel corporation; in the petroleum sector, it would be the state petroleum corporation. Ideally, all the categories of information discussed previously under information requirements ought to be accessible to the monitoring authority.

## C. Coordination

49. Procedures and guidelines need to be established to spell out how the information is to be analysed and evaluated, what financial and other standards need to be adopted and how the data are to be obtained and measured. Those standards require coordination among the line ministries that have the necessary expertise to do the analysis and evaluation, as well as, in the case of joint ventures, with the Government's representatives on boards of directors. Some Governments have found it useful to have regularly scheduled meetings of appropriate officials to evaluate the performance of companies in which a Government is a joint venture participant. A coordination agency is essential for those purposes.

## D. Role of local representatives on the board of directors

50. The role to be played by locally appointed members on the board of directors needs to be fully gauged. All too frequently countries do not have the internal arrangements for information sharing between the local director and the ministries with the capacity and expertise to analyse the information so that the monitoring function is left with the local representatives on the board of directors. While, in principle, directors have access to all information disclosed under the relevant company laws, all too often the information is not sufficient and does not reach the directors in time to obtain feedback from the competent ministries. Further, not all directors are aware of all their rights and responsibilities.

51. The Government of one developing country, concerned that its directors representing local partner interests on joint venture boards were not fully aware of their rights or of their duties and liabilities, has requested that the United Nations Centre on Transnational Corporations conduct a training programme for government and locally appointed directors. In this connection, the Centre is contemplating the preparation of a manual or handbook which would set out the basic information including rights, duties, liabilities, procedures and guidelines for the benefit of company directors in discharging their functions to represent a local party's interests on such boards.

## E. International information exchange

52. Information exchange across national borders is an emerging issue. The very transnationality of transnational corporations and the fact that there is hardly any single authority, national or international, having an accurate picture of their entire operations across multiple borders, contributes to the clouding of transparency and accountability. In recent cases, particularly in the publishing and banking industries, transnationality has been used to ensure opacity and to evade the supervisory functions of Governments, which of necessity are restricted to their jurisdictions. The events suggest that the international framework for information disclosure and exchange may not have been used effectively and that there are gaps in international information exchange.

53. As a result, many countries, including Germany, the United Kingdom and the United States, are currently considering regulatory changes and bilateral and multilateral arrangements for the sharing of information. In the banking and securities industries, these include clarification of the country, or perhaps an international, mechanism designated as regulatory base with which consolidated information is filed; sharing of information between and among authorities; international information sharing and conformity with minimum managerial, financial and operational standards. These tools are necessary for each host country to protect its citizens and its national interests. Tax authorities of some OECD countries have discussed methods of cooperating more closely to deal with tax avoidance through the manipulation of transfer prices. There appears to be a trend towards greater international information sharing to permit the monitoring of critical sectors. Countries need to assess this issue in the design of information collection and analysis systems.

## V. CONCLUSIONS

54. The preceding discussion leads to some conclusions on information and reporting requirements for tracking company performance. While much is being done to set up effective information reporting and monitoring mechanisms, there is still room for substantial improvement. The major conclusion that emerges, however, is that much of the information currently reported is not well utilized.

55. In addition, in the area dealing with transnationality, a substantial amount of work has yet to be done in implementing and extending uniform international accounting and reporting standards. This is a problem with which even the developed countries have not satisfactorily come to grips. Developing countries suffer even more from this problem. International action to address the issue appears to be desirable.

56. Governments may consider taking the following action for the purpose of, on one hand, making existing information better accessible within and among countries, and, on the other, obtaining from transnational corporations the information required for effective performance tracking:

(a) Review their existing legislation to ensure that it is sufficient to obtain adequate information to track the activities of the companies they deal with, so as to ensure the transparency of operations and promote accountability. Guidelines should address locus of responsibility, information sharing, feedback, confidentiality and standardization:

> Few investment regimes currently include information disclosure guidelines sufficient to meet international needs;

(b) Review their administrative practices to obtain and consolidate information from their own reporting systems:

Many of the problems with tracking performance stem not so much from lack of information per se, but from failure to put the right information into the right hands at the right time. A structured review of procedures can illuminate shortcomings and point out needed modifications to existing procedures;

(c) Introduce standardized reporting procedures and forms and adopt uniform accounting standards:

Insufficient standardization limits the comparability of the information obtained;

(d) Ensure that the information collected is shared, analysed and made accessible in usable form:

Even where information reporting requirements are set out, there may be practical obstacles to information flow, such as the unwillingness of some departments to share information useful for tracking company activities, or lack of awareness of large information resources that exist within or outside the national territory, such as company filings to home country authorities;

(e) Promote intergovernmental cooperation for the exchange of information with other Governments on a regular basis:

While substantial work has been done to develop international reporting standards, much remains to be done for the international sharing of information across borders.

57. The Centre has assisted national and international efforts to improve the flow of information to track business activities. In the further development of this function it could prepare manuals on information needs and reporting requirements; assist and advise in locating sources of necessary information; analyse the information flows in developing countries and advise on their improvement; conduct seminars and workshops for officials and local directors of joint venture companies and other contractual/legal entities; and assist in the development of reporting standards and mechanisms for the international exchange of information.

## Notes

1/ Official Records of the Economic and Social Council, 1991, Supplement No. 10 (E/1991/31), para. 149.

2/ United Nations publication, Sales No. 91.II.A.13.

3/ See Transnational Corporations in World Development: Trends and Prospects (United Nations publication, Sales No. 88.II.A.7), table VI.1.

Notes (continued)

4/ Details of these provisions are included in "Transfer pricing protective provisions in joint venture contracts", paper prepared for the International Workshop on Negotiating Joint Ventures Agreements, Moscow, 19-23 March 1990.

5/ European Communities, Council Directive No. 78/660/EEC, 25 July 1978.

6/ United Nations publication, Sales No. 89.II.A.18.

7/ United Nations publication, Sales No. 88.II.A.18.

8/ United Nations publication, Sales No. 90.II.A.4.

9/ United Nations publication, Sales No. 91.II.A.3.

10/ See the report of the Secretary-General on accounting for environmental protection measures (E/C.10/AC.3/1991/5).

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